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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2013-0085]

RIN 0579-AD87

Importation of Two Hybrids of Unshu Orange From the Republic of Korea Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of citrus fruit to allow the importation of commercial consignments of two Unshu orange hybrids from the Republic of Korea into the continental United States. These hybrids would be eligible for importation into the continental United States subject to the existing conditions for the importation of Unshu oranges from the Republic of Korea. We would also make one minor change to the existing regulations by adding an explicit statement that only commercial consignments of Unshu oranges would be eligible for importation into the continental United States. The proposed changes would remove the prohibition on the importation of Unshu orange hybrids that can safely enter the United States, provided that certain conditions are met, and would codify an existing requirement.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to
<http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0085>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2013-0085, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0085> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Coordination Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737-1231; (301) 851-2114.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.28 govern the importation of citrus fruit into the United States. These regulations are intended to prevent the introduction of citrus canker, among other citrus diseases and pests, into the United States via the importation of citrus from affected foreign regions. Citrus canker is a disease that affects citrus and is caused by the infectious bacterium Xanthomonas citri subsp. citri.

On October 12, 2010, we published in the Federal Register (75 FR 62455-62457, Docket No. APHIS-2010-0022) a final rule¹ amending the regulations concerning the importation of citrus fruit in § 319.28 to remove certain restrictions on the importation of Unshu oranges from the Republic of Korea (South Korea) that were no longer necessary. Specifically, we removed requirements for the fruit to be grown in specified canker-free export areas and for joint inspection in the groves and packinghouses by the Government of the Republic of Korea and the Animal and Plant Health Inspection Service (APHIS). We also clarified that surface sterilization of the fruit must be conducted in accordance with 7 CFR part 305 and expanded the area in the continental United States where Unshu oranges from the Republic of Korea could be distributed. Finally, we required that each shipment be accompanied by a phytosanitary certificate containing an additional declaration stating that the fruit was given the required surface sterilization and inspected and found free of Elsinoe australis, the fungus that is the causal agent of sweet orange scab.

Under the existing regulations, only one species of Unshu orange, Citrus reticulata Blanco var. unshu, Swingle [Citrus unshiu Marcovitch, Tanaka], is eligible for importation into the continental United States from the Republic of Korea. The 2010 rulemaking did not address that restriction.

In 2011, however, the national plant protection organization (NPPO) of the Republic of Korea submitted to APHIS a request to allow exports to the continental United States of two Unshu, sweet, and mandarin orange hybrids: Shiranuhi [(C. reticulata ssp. unshiu x (C. x sinensis)) x C. reticulata] and Setoka [(C. reticulata ssp. unshiu x (C. x sinensis)) x C. reticulata] x C. reticulata]. In response to that request, we developed a pest risk analysis (PRA). Copies of

¹ To view the rule, go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2010-0022-0007>.

the PRA may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).² The PRA, titled “Importation of Two Fresh Fruit Hybrids of Unshu, Sweet, and Mandarin Oranges, Citrus spp., from Korea into the Continental United States” (May 2013), identified two pests, Xanthomonas citri subsp. citri and Elsinoe australis (the causal agents of citrus canker and sweet orange scab, respectively), as quarantine pests associated with the two Unshu orange hybrids. Those are the same quarantine pests that an earlier PRA that supported the 2010 rulemaking identified as being associated with Unshu oranges imported from the Republic of Korea.

The May 2013 PRA and the earlier one each included a risk management document (RMD) outlining the conditions under which the commodities under consideration could safely be imported into the continental United States. The 2013 RMD determined the two Unshu orange hybrids, being subject to infestation by the same quarantine pests as Unshu oranges imported from the Republic of Korea, could safely be allowed entry to the United States under the same conditions. Those conditions include surface treatment of the fruit in accordance with 7 CFR part 305 prior to packing, registration of the packinghouse in which the treatment is applied and the fruit is packed with the NPPO of South Korea, and certification that the fruit has been treated in accordance with the regulations and has been inspected and found to be free of sweet orange scab (Elsinoe australis).

We are proposing to make one modification to the existing requirements by adding to § 319.28(c) an explicit statement indicating that shipments of Unshu oranges and the two Unshu

² Instructions on accessing Regulations.gov and information on the location and hours of the reading room may be found at the beginning of this document under ADDRESSES. You may also request paper copies of the risk analysis by calling or writing the person listed under FOR FURTHER INFORMATION CONTACT.

orange hybrids from the Republic of Korea would have to be commercial consignments in order to be eligible for U.S. entry. This change would codify our current practice. Commercial consignments are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packing, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

We are proposing to amend the regulations to allow the importation into the continental United States, under certain conditions, of commercial consignments of two Unshu, sweet, and Mandarin orange hybrids.

Easy-peel, sweet, juicy, seedless mandarin varieties, including Unshu oranges, are gaining popularity in the United States. The United States does not commercially produce Unshu oranges, but does produce various similar mandarin varieties. U.S. production of these mandarin varieties doubled in 6 years, from 225,000 metric tons (MT) in 2007, to almost 500,000 MT in 2012. Production values of mandarin varieties more than doubled, from \$141 million in 2007 to \$336 million in 2012. In general, harvesting and marketing activities are most active between January 1 and March 31 in California and between November 15 and March 15 in Florida. U.S. imports of mandarin varieties averaged about 142,000 MT per year, valued at \$178 million, between 2010 and 2012, with Chile, Spain, Peru, and Morocco the main sources. Net imports (imports minus exports) averaged about 100,000 MT per year.

The Republic of Korea and Japan are the principal exporters of Unshu oranges to the United States. In Korea, almost all Unshu oranges are produced on the southern island of Cheju. Over 99 percent of Korea's Unshu oranges are consumed domestically, and only about 0.6 percent of Korea's Unshu oranges, totaling 3,611 MT valued at \$4.8 million, were exported in 2012. The United Kingdom was the main destination of Korean Unshu oranges; the United States was the fourth largest importer of Korean Unshu oranges in 2012, totaling 743 MT. In the United States, these imported Unshu oranges were typically sold at a premium in ethnic specialty stores.

The PRA for this proposed rule assumes the upper range of annual Unshu orange imports from Korea to the United States to be about 2,000 MT. Prior to administrative suspension of Unshu orange imports from Korea to the United States in 2003, imports of Unshu oranges from Korea to the United States averaged about 650 MT annually between 1995 and 2002. Following the removal of the import suspension in 2010, imports of Unshu oranges from Korea totaled 412

MT in 2011 (valued at \$0.5 million) and 743 MT in 2012 (valued at \$0.9 million). Given these import levels and Korea's limited supply capacity and relatively stable domestic demand, Korea's projected exports of 2,000 MT may be high. Even if imports from Korea were to reach 2,000 MT, the Korean Unshu orange share of the U.S. market for mandarin varieties is expected to remain negligible (about 1.4 percent of U.S. imports and 0.3 percent of U.S. domestic supply of all mandarin varieties based on the U.S. production and trade data for 2010-2012). In addition, given the fact that fresh Unshu orange imports by the United States are predominantly supplied by Japan and Korea, we expect any product displacement would be largely borne by Japanese Unshu orange imports.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow two Unshu orange hybrids to be imported into the continental United States from the Republic of Korea. If this proposed rule is adopted, State and local laws and regulations regarding the Unshu orange hybrids imported under this rule would be preempted while the fruit is in foreign commerce. Fresh Unshu orange hybrids are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2013-0085. Please send a copy of your comments to: (1) APHIS, using one of the methods described under ADDRESSES at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would allow the importation of commercial consignments of two Unshu orange hybrids from the Republic of Korea into the continental United States, subject to the conditions governing the importation of Unshu oranges from the Republic of Korea.

Under this rulemaking, packinghouses in which the required surface sterilization treatment is applied and the fruit is packed would have to be registered with the NPPO of the Republic of Korea. In addition, the NPPO of the Republic of Korea would issue the phytosanitary certificate that would have to accompany each shipment.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

- (2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.5588 hours per response.

Respondents: Importers of Unshu oranges and the NPPO of the Republic of Korea.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 8.5.

Estimated annual number of responses: 34.

Estimated total annual burden on respondents: 19 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this

proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are proposing to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.28 is amended by revising paragraph (c) to read as follows:

§ 319.28 Notice of quarantine.

* * * * *

(c) Unshu oranges from the Republic of Korea. The prohibition does not apply to Unshu oranges (Citrus reticulata Blanco var. unshu, Swingle [Citrus unshiu Marcovitch, Tanaka]), also known as Satsuma mandarin, or the Unshu, sweet, and mandarin orange hybrids Shiranuhi [(C. reticulata ssp. unshiu x (C. x sinensis)) x C. reticulata] and Setoka [(C. reticulata ssp. unshiu x (C. x sinensis)) x C. reticulata] x C. reticulata] grown on Cheju Island, Republic of Korea, and imported under permit into any area of the United States except for those specified in paragraph (c)(4) of this section, Provided, that each of the following safeguards is fully carried out:

(1) Before packing, the fruit shall be given a surface sterilization in accordance with part 305 of this chapter.

(2) The packinghouse in which the surface sterilization treatment is applied and the fruit is packed must be registered with the national plant protection organization of the Republic of Korea.

(3) The fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of Korea, which includes an additional declaration stating that the fruit was given a surface sterilization in accordance with 7 CFR part 305 and was inspected and found free of Elsinoe australis.

(4) The fruit may be imported into any area of the United States except American Samoa, Hawaii, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(5) The fruit must be imported in commercial consignments only.

* * * * *

Done in Washington, DC, this 23rd day of July 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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